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EXAMINER	
FELTEN, DANIEL S	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CHRISTOPH T. CORVIN

Appeal 2009-009415
Application 09/747,040
Technology Center 3600

Before HUBERT C. LORIN, ANTON W. FETTING, and
JOSEPH A. FISCHETTI, *Administrative Patent Judges*.

LORIN, *Administrative Patent Judge*.

DECISION ON APPEAL[1]

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[1] The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the "MAIL DATE" (paper delivery mode) or the "NOTIFICATION DATE" (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

Christoph T. Corvin (Appellant) seeks our review under 35 U.S.C. § 134 (2002) of the final rejection of claims 1-9, 11-19, 21-37, 39-43, and 45-60. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

SUMMARY OF DECISION

We REVERSE and enter a new ground of rejection pursuant to 37 C.F.R. 41.50(b).[2]

THE INVENTION

The invention is a method for analyzing transactions for medical resources in a medical facility. Specification 4:3-4.

Claim 1, reproduced below, is illustrative of the subject matter on appeal.

> 1. A method for analyzing transactions for medical resources in a medical facility, the method comprising:
>
> providing access to financial analysis system for a medical resource supplier via a network;
>
> providing a network interface for communication with the financial analysis system, the network interface including a form for entering client data for medical resources;

[2] Our decision will make reference to the Appellant's Appeal Brief ("App. Br.," filed Dec. 4, 2006) and Reply Brief ("Reply Br.," filed May 25, 2007), and the Examiner's Answer ("Answer," mailed Mar. 21, 2007).

receiving the client data from the network interface via the network, wherein receiving the client data comprises receiving client trade-in data for a purchasing transaction for medical resources;

analyzing the client data in the financial analysis system;

providing a plurality of financial transaction options tailored to the client data; and

transmitting the plurality of financial transaction options to a client via the network.

THE REJECTION

The Examiner relies upon the following as evidence of unpatentability:

Hartley-Urquhart US 6,167,385 Dec. 26, 2000

John McCormack, *A worldwide network of supplies*, 7 Health Data Management 54 (1999). [Hereinafter, McCormack.]

Janet Kalbhen. *Buying on the Web*. 8Materials Management in Health Care 16 (1999). [Hereinafter, Kalbhen.]

The following rejection is before us for review:

1. Claims 1-9, 11-19, 21-37, 39-43, and 45-60 are rejected under 35 U.S.C. §103(a) as being unpatentable over Hartley-Urquhart, McCormack, and Kalbhen.

ISSUE

The issue is whether claims 1-9, 11-19, 21-37, 39-43, and 45-60 are unpatentable under 35 U.S.C. §103(a) over Hartley-Urquhart, McCormack, and Kalbhen. Specifically, the issue is whether Hartley-Urquhart teaches: 1) "providing a plurality of financial transaction *options* which are tailored to the client data" and "transmitting the plurality of financial transaction

options to a client via the network" as recited in independent claims 1, 33, 40, 49, 50 and 53-60 and 2) a "financial analysis module being configured to evaluate the client data and to generate a plurality of financial transaction *options* tailored to the client data" as recited in independent claims 17, 51, and 52.

ANALYSIS

The Appellant argues that none of Hartley-Urquhart, McCormack, or Kalbhen teaches: 1) "providing a plurality of financial transaction *options* which are tailored to the client data" and "transmitting the plurality of financial transaction *options* to a client via the network" as recited in independent claims 1, 33, 40, 49, 50 and 53-60 and 2) a "financial analysis module being configured to evaluate the client data and to generate a plurality of financial transaction *options* tailored to the client data" as recited in independent claims 17, 51, and 52. App. Br. 18-19 and Reply Br. 6-7.

In the Answer, the Examiner does not respond to this argument. *See* Answer 5-6. However, in the rejection, the Examiner cites to Hartley-Urquhart to teach this subject matter. Answer 4. The Examiner cites "see PO, col. 6, ll. 29-37; col. 8, ll. 50+" for the step of providing a plurality of financial transaction options and cites "col. 8, ll. 50+" for the step of transmitting the plurality of financial transaction options.

However, we find that these citations do not teach the limitations at issue. Hartley-Urquhart does teach that a purchase order (PO), which is mentioned in column 8, lines 50-59, can be transmitted on the network of an implemented supply chain funding system; however, the purchase order does not contain a plurality of financial transaction options. Column 6, lines

29-37 does not relate to the purchase order. This passage teaches that the supply chain funding system could be structured differently based on the needs to the trading partners and seems to refer back to Hartley-Urquhart's previous discussion of evaluating and setting up the supply chain funding system. *See* col. 3, ll. 16 – col. 4, ll. 39. However, Hartley-Urquhart does not describe that different structure options are transmitted over the network of supply chain funding system. We fail to see, and the Examiner provides no other explanation, as to how these cited passages of Hartley-Urquhart teach the limitations at issue. Accordingly, we find that the Appellant has overcome the rejection of claims 1, 17, 33, 40, 49-60, and claims 2-9, 11-16, 18, 19, 21- 32, 34-37, 39, 41-43, and 45-48 under 35 U.S.C. §103(a) as being unpatentable over Hartley-Urquhart, McCormack, Jr., and Kalbhen.

NEW GROUND OF REJECTION

Pursuant to 37 CFR 41.50(b) we enter a new ground of rejection on claims 56-60.

We reject claims 56-60 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Taking claim 56 as representative, claim 56 recites "[a] program" which comprises "a machine readable medium" and "machine readable code disposed on the medium." We note that the Specification is silent as the meaning of "a machine readable medium." Giving claim 56 the broadest reasonable construction, we find that claim 56 encompasses forms of the machine readable code being disposed on

transitory propagating signals *per se*.[3] A signal does not fit within at least one of the four statutory subject matter categories under 35 U.S.C. §101. *In re Nuijten*, 500 F.3d 1346, 1357 (Fed. Cir. 2007).

DECISION

The decision of the Examiner to reject claims 1-9, 11-19, 21-37, 39-43, and 45-60 is reversed.

We enter a new ground of rejection on claims 56-60.

This decision contains a new ground of rejection pursuant to 37 C.F.R. § 41.50(b) (effective September 13, 2004, 69 Fed. Reg. 49960 (August 12, 2004), 1286 Off. Gaz. Pat. Office 21 (September 7, 2004)). 37 C.F.R. § 41.50(b) provides "[a] new ground of rejection pursuant to this paragraph shall not be considered final for judicial review."

37 C.F.R. § 41.50(b) also provides that the appellant, WITHIN TWO MONTHS FROM THE DATE OF THE DECISION, must exercise one of the following two options with respect to the new ground of rejection to avoid termination of the appeal as to the rejected claims:

> • (1) Reopen prosecution. Submit an appropriate amendment of the claims so rejected or new evidence relating to the claims so rejected, or both, and have the matter reconsidered by the examiner, in which event the proceeding will be remanded to the examiner . . . .
>
> • (2) Request rehearing. Request that the proceeding be reheard under § 41.52 by the Board upon the same record . . . .

[3] *See Subject Matter Eligibility of Computer Readable Media*, 1351 Off. Gaz. Pat. Office 212 (Feb. 23, 2010).

REVERSED; 37 C.F.R. § 41.50(b)

mev

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